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**ADVISORY COMMITTEE ON THE FRAMEWORK CONVENTION FOR  
THE PROTECTION OF NATIONAL MINORITIES**

**COMMENTS OF THE GOVERNMENT OF THE NETHERLANDS  
ON THE FIRST OPINION OF THE ADVISORY COMMITTEE ON THE  
IMPLEMENTATION OF THE FRAMEWORK CONVENTION FOR THE PROTECTION  
OF NATIONAL MINORITIES  
BY THE NETHERLANDS  
(received on 17 February 2010)**

## **DUTCH RESPONSE TO THE OPINION OF THE ADVISORY COMMITTEE ON THE FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES IN THE NETHERLANDS**

1. The Netherlands has noted with interest the work of the Advisory Committee on the Framework Convention for the Protection of National Minorities which led to its Opinion on the Netherlands as adopted on 25 June 2009. In its response, the Netherlands has restricted itself to a significant degree to the findings of the Advisory Committee which are also stated in Chapter V (Main Findings and Comments of the Advisory Committee). With regard to the other points – to which reference is made in Chapter IV and which will remain undiscussed in this response – the findings of the Advisory Committee will be taken into account where possible on the policy of the Dutch authorities. However, the Specific Comments in Chapter III will also be discussed in one single instance.

### *Policy in respect of the Frisians and their language*

2. The Dutch government welcomes the view of the Advisory Committee that “the Netherlands has made commendable efforts with respect to the implementation of the Framework Convention with regard to the Frisians living in Fryslân”. However, the Advisory Committee does state that in some policy areas – particularly in education – there is room for improvement. The Advisory Committee is thus of the opinion that “further efforts are ... needed in terms of teacher training, supervision of Frisian teaching and the amount of teaching in Frisian” (cf. paragraph 114).

3. Under consideration at present is the extent to which “a possible devolution of powers from the central to the local authorities” might make a contribution towards improving education in the province of Fryslân, including under this the position of the Frisian language. The committee that is giving the government its recommendations concerning this devolution is expected to submit its findings during the first half of 2010. The Advisory Committee’s observations, insofar as they concern decentralisation of policy in respect of the Frisian language and culture (cf. paragraphs 95, 103, 106-110), have a broader scope than education alone. In view of the Advisory Committee’s findings, its opinion will be brought to the attention of the Steering Group for the Decentralisation of the Frisian Language to the province of Fryslân so that the committee can incorporate the Advisory Committee’s observations in its recommendations.

4. In paragraphs 60-63 of its report, the Advisory Committee indicates its concern about the financial situation of *Omrop Fryslân* now that the funding of all regional broadcasting companies, and thus including that of *Omrop Fryslân*, has been decentralised. In light of the Advisory Committee’s report, the Dutch government needs to explain policy on this area in more detail.

5. Since 1 January 2006, financial responsibility for regional broadcasting has rested entirely with the provinces. As determined at the time that funding was transferred, that responsibility entails the province of Fryslân financing at least one regional public broadcasting company with this being done in such a way as to make a high quality programme of media services possible, to guarantee the continuity of funding and to continue to maintain the level of activities as at 2004.<sup>1</sup>

6. The 2008 Media Act also determines that this funding structure be evaluated every three years. The Dutch Media Authority completed the first evaluation last year for the period covering 2006-2008. The Authority’s most important finding was that the provinces have fulfilled their ‘minimum duty of care’. In each province it is the provincial government that bears responsibility for financing the operation of at least one regional broadcasting institution. Regarding all regional

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<sup>1</sup> 2008 Media Act, Section 2.170.

broadcasting companies, a 'real index' is applied to the annual amount of subsidy that enables activities to be maintained at their 2004 level. An evaluation of this will be performed once again in 2011. This three-yearly evaluation has to provide a sufficient guarantee for all the parties concerned that the regional broadcasting company's financial situation – and thus also that of *Omrop Fryslân* – has been safeguarded.

7. In addition to the funding that *Omrop Fryslân* receives from the province of Fryslân, the Ministry of Education, Culture and Science (OCW) has funded (since 2004) an annual contribution from special-purpose provisions of €50,000 to €100,000 for Frisian language cultural and children's programming. This contribution supplements the contribution that *Omrop Fryslân* receives from the province.

8. The Dutch government sees insufficient reason for bringing about a treaty between the Netherlands and Germany so that the interests of Frisians be better served by following such a course of action (cf. paragraph 112). Should the occasion and need arise among the authorities in the province of Fryslân for a more active form of collaboration in an inter-Frisian connection, the mechanisms of the European Grouping of Territorial Cooperation (EGTC) regulation will then be at their disposal for that purpose. This EU regulation gives the option to decentralised authorities, as well as to other regulatory bodies such as universities and colleges of higher education, to enter into a formalised cross-border joint venture governed by public law.

#### *Policy in respect of Roma and Sinti*

9. The Dutch government fully understands the concerns of the Advisory Committee with regard to the position of Roma and Sinti in Dutch society. The fact of the matter is that government policy in relation to Roma and Sinti is almost universally a priority of the Council of Europe's monitoring bodies and those of other human rights organisations. The Advisory Committee's observations give the Netherlands reason to make the following remarks.

10. In general terms, the Netherlands welcomes the focus of the Council of Europe on the position of Roma and Sinti and the role that governments play in that respect.

11. In the Netherlands, the government and parliament have understood that by and large the Roma and Sinti in our country cannot be placed under the terms of the Framework Convention with the exception of Article 6 which – in view of the phrasing of the aforementioned article – has a general purport. The Advisory Committee refers to this in paragraph 35 of its opinion. With Article 6 in mind, the Dutch government welcomes the observations that the Advisory Committee has made in its opinion concerning the Roma and Sinti (cf. paragraphs 46 to 51 inclusive and Chapter IV). These observations made by the Advisory Committee will be included in the policy that the Netherlands pursues on this matter.

12. Regarding the line of reasoning in respect of the personal scope of application (cf. paragraphs 92 and 115 of the Opinion, among others) – particularly where Roma and Sinti are concerned – reference is made to the initial State Report of the Netherlands dated 16 July 2008. As far as this is concerned, the Advisory Committee observations provide no reason for changing the scope of application of the Framework Convention in the Netherlands. Naturally, this decision does not imply that *carte blanche* should exist in the Netherlands for the discrimination of Roma and Sinti. On the contrary.

13. Needless to say, the Roma and Sinti enjoy convention-based protection under the European Convention on Human Rights (ECHR) and the non-discrimination protocol accompanying it. The

Protocol extends the prohibition on discrimination – including discrimination by virtue of belonging to a minority – in Article 14 ECHR from the rights under the Charter to a general ban on discrimination. In addition, within the context of the activities of, for example, the European Commission against Racism and Intolerance (ECRI) and the Commissioner for Human Rights, the Council of Europe rightly requests that attention be given to the treatment of Roma and Sinti in the Netherlands. Lastly, the languages of Roma and Sinti are protected under the European Charter for Regional or Minority Languages. Therefore, the subject of the non-discrimination of Roma and Sinti in the Netherlands is fully on the agenda both at the pan-European as well as at the national level.

14. In a letter dated 26 June 2009 to the House of Representatives (House of Representatives 2008-2009, 31 700 XVIII, no. 90), the Dutch government set out its position on policy in respect of Roma in the Netherlands. The Dutch government's first principle is that municipalities in which Roma populations are concentrated, referred to as "Roma municipalities", are best placed to bear responsibility by themselves for the correct approach to the problems of the local Roma population. This involves a limited number of municipalities in the Netherlands and a relatively small Roma population. The second principle is that central government is encouraging the "Roma municipalities" to utilise the options provided to them by the generic policy as effectively as possible in order to deal with the problems signalled by them concerning a segment of the local Roma communities. Central government's third principle is that the involvement of the Roma community is of crucial importance when tackling the problems of their own community. It is up to the "Roma municipalities" to involve the Roma community concerning the policy that also applies to them. Moreover, the Dutch government has resolved to enter into consultation with the Roma community twice a year from 2010 onwards. In 2010, the Dutch government has put €600,000 at the disposal of the "Roma municipalities" in order to combat the dropping out of school among female Roma students. In addition, the Netherlands Institute for Sinti and Roma was founded in 2009, this being a centre of expertise for Roma and Sinti.

#### *The overall tone of public discourse and the new integration policy in the Netherlands*

15. The Netherlands does not subscribe to the observation of the Advisory Committee that "the overall tone of public discourse in the Netherlands and the new integration policy, with its particular focus on the preservation of Dutch identity, have had negative consequences on the preservation of a climate of mutual understanding between the majority population and the ethnic minorities." (cf. paragraphs 96 and 116). What some saw as a "climate of mutual understanding" is with the wisdom of hindsight now more frequently interpreted as a climate of detachment, of living alongside one another and, as a result, of de facto disintegration or segregation. The government's policy aims to combat segregation and promote integration as explained in more detail below.

16. As also indicated in the response of the Dutch government to the most recent ECRI report, the government recognises the view that in a society with an increasingly great diversity of cultures, religions and values, it is unavoidable that social debate should ensue, sometimes of the very fieriest kind. The Dutch council of ministers emphasised its position in response to the ECRI report that the genuine concerns of citizens form the basis of the current debate which cannot be simply evaded. In a democratic society that is characterised by its great diversity, the government is of the opinion that debate is inevitable, precisely in order to safeguard democratic achievements and shared values, such as the equal treatment of people irrespective of their culture, sex, religion or sexual orientation. In the council of ministers' view, the voicing of problems does need to occur but in a manner that is respectful, constructive and aimed at finding solutions.

17. The Municipal Anti-discrimination Services Act has been in force since 28 July 2009. This Act ensures that every citizen can come forward in an accessible manner in his or her residential area to report (alleged) discrimination and to receive help and advice from an independent anti-discrimination body. The Act provides for a network of such facilities with national coverage. In the summer of 2009 a national information campaign lasting six weeks focused attention on these facilities in order to boost people's readiness to report discriminatory experiences. The Netherlands will be monitoring the effect of the Act carefully, evaluating it within three years and, therefore, is also welcoming the activities of the Council of Europe and its monitoring bodies in this area.

18. Furthermore, the Advisory Committee noted in paragraph 100 that, during its visit to the Netherlands, concerns had been raised by [the government's] attempts to adopt measures targeting specific ethnic groups (notably what is referred to as the Reference Index of Antilleans). As early as 2008, partly based on the concerns to which the Committee refers and in consultation with all of the parties involved, the government decided against introducing a Reference Index of Antilleans (Letter from the Minister for Housing, Neighbourhoods and Integration dated 19 December 2008 to the Chairman of the House of Representatives; Parliamentary Documents II (2008-2009) 26,283, no. 49). In its place, the government decided to adopt an integrated approach to the issue of young people at risk in Dutch society.